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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003011

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SUBJECT: VP HASHIMI LOOKS FOR FACE-SAVING ALTERNATIVE TO
VETOING ELECTION LAW

REF: BAGHDAD 3005

Classified By: Political Counselor Yuri Kim for Reasons 1.4 (b, d)

¶1. (C) SUMMARY: Iraqi Vice President Tariq al-Hashimi continues to refuse to sign the amended election law on the grounds that it unfairly dilutes the ballots of out-of-country voters. In a letter presented to the Council of Representatives (COR) on November 16, he proposed remedying the situation by either increasing the percentage of national compensatory seats from 5 percent to 15 percent of total seats in the COR or changing the way expatriate votes are tabulated -- otherwise he would not be able to sign the law. The COR refused to take action on either option, however. Hashimi has reiterated that he does not want to veto the law, but is prepared to do so if his concerns are not addressed by the time the COR recesses tomorrow (November 17). Our Iraqi interlocutors, most of whom are dismissive of Hashimi's demands, assess that Hashimi understands that a veto would be a "lose" for him and is seeking a face-saving way out. Post is working closely with relevant actors (UNAMI, IHEC, political leaders) to push to develop a technical fix (i.e., non-legislative action) that provides Hashimi a face-saving exit, is acceptable to other parties, and does result in a delay of the election. END SUMMARY.

A MORNING VETO THREAT

¶2. (C) Vice President Hashimi's Director General, Krikor Der-Hagopian, informed poloff the morning of November 16 that the VP had sent a letter to the Council of Representatives (COR) opposing the amended election law for diluting the votes of several million Iraqi expatriates. By applying the results of out-of-country voting (OCV) to only eight national compensatory seats (reftel), the law likely violated the constitution's requirement that there be one COR seat for every 100,000 Iraqis, the letter contends. Der-Hagopian said Hashimi hoped the COR would act on the letter later in the day by amending Article 1 of the law to increase the number of compensatory seats. According to Der-Hagopian, Vice President Abd al-Mahdi and Grand Ayatollah Sistani had expressed support to Hashimi for an increase from the current 5 percent to 15 percent of total COR seats (i.e., from 16 to 48 seats). If the COR did not take action along these lines, Hashimi would be forced to veto Article 1, Der-Hagopian warned. (COMMENT: While unclear, it appears that the Iraqi constitution does not authorize a line-item veto. A veto of one article of a law could accordingly invalidate the law in its entirety. END COMMENT.)

NOT MUCH ACTION IN PARLIAMENT

¶3. (SBU) Within an hour of opening the COR session, Speaker Ayad al-Sammarraie informed MPs that the COR leadership had received a letter from VP Hashimi stating that he could not ratify the election law amendments passed by the COR on November 8. Sammarraie continued that Hashimi wanted an

increase in the amount of national compensatory seats to 15 percent to strengthen COR representation for out-of-country voters or, alternatively, a mechanism to guarantee equitable treatment for OCV. (NOTE: Despite local media reports to the contrary, the Iraqi Presidency Council did not/not submit a letter or draft election law amendments to the COR.

Hashimi's letter expressed only his views and not those of the other Presidency Council members. END NOTE.)

Approximately 100 MPs (well short of a quorum) then engaged in a 45-minute discussion on the letter and the election law.

Sammarraie ended the debate by stating that the letter from Q Sammarraie ended the debate by stating that the letter from Hashimi did not constitute a veto and that the COR could not amend legislation based on "a friendly letter of suggestions; the COR needs a formal request from the Presidency Council." Most of the MPs present then left the COR chamber. The COR reconvenes November 17 for another session before a regularly scheduled recess.

¶4. (C) Prior to the COR session, Shia MP Ali al-Adeeb (Da'wa Party leader) told us party bloc leaders had not seen a proposal to amend the November 8 election law and that any recommended changes would require time for review and debate.

He added that his party would not support raising the percentage of compensatory seats from 5 to 15 percent. Second Deputy Speaker Arif Tayfour (KDP) acknowledged to poloff that KDP leaders and the Iraqi Kurdistan Parliament supported a higher percentage of national compensatory seats, but said he had not received instructions from either President Talabani or KRG President Barzani on how to vote to amend Article 1 (i.e., whether to approve an increase to 10 or to 15 percent). If the COR did not vote to amend Article 1, the Kurdish leadership would oppose a veto by Hashimi.

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Poloff overheard Sunni MP Osama al-Nujaifi tell other MPs that he had met with Hashimi earlier in the day and that the Iraqi VP wanted the COR to instruct the Independent High Electoral Commission (IHEC) to count the ballots of out-of-country voters towards their "home" governorates, rather than apply these votes to the pool of national compensatory seats.

A POLITE LETTER

¶5. (C) Hashimi's letter to the COR, as translated by Embassy staff, is far from threatening. The letter opens by congratulating the COR for its "exceptional achievement" in adopting an election law with open lists and multiple districts. The VP then moves on to express serious reservations about current OCV procedures, claiming that using out-of-country ballots only to determine compensatory seats conflicts with several articles of the Iraqi constitution. In order to overcome these concerns "before making my final decision with respect to the law in question," Hashimi appealed to MPs in his letter to accept one of two options: 1) raise the percentage of compensatory seats from 5 percent to 15 percent of total COR seats; or 2) count out-of-country ballots in determining the winners of non-compensatory seats. The letter concludes by stating that Hashimi "looks forward to (the COR's) favorable position on the above proposals." Nowhere in the letter does the word "veto" appear.

WHERE DOES HASHIMI REALLY STAND?

¶6. (C) In an evening meeting with National Security Council Senior Direct Samantha Power, Der-Hagopian said Hashimi was working with IHEC officials to hammer out details for remedying the "inequitable treatment" for OCV. Der-Hagopian stressed that in addition to increasing the number of compensatory seats to 15 percent of the total, Hashimi wanted clarification of IHEC rules for administering OCV. Key to this IHEC clarification, according to Der-Hagopian, would be

provisions that out-of-country ballots would be counted in a single pool of votes separate from those ballots inside Iraq -- effectively establishing a new "district" specifically for OCV. Der-Hagopian stressed that Hashimi did not want to veto the election law, but that under the circumstances, all Sunni political blocs, as well as the Kurds, would support a veto. Key Shia leaders also supported measures to change OCV treatment, he asserted. (NOTE: Shia MP Qassim Daoud told poloff following this meeting that Vice President al-Mahdi is encouraging Hashimi to back down from his maximalist position of 15 percent compensatory seats or "unreasonable" OCV procedures. END NOTE.)

¶7. (C) At the same time as Power was meeting with Der-Hagopian, Hashimi was meeting next door with IHEC and UNAMI to examine possible solutions. IHEC Spokesperson Qassim al-Aboody told us he and IHEC Chief Faraj al-Haydari had explained to Hashimi how complicated it would be to expand the number of compensatory seats or radically change procedures for OCV. Hashimi reportedly replied that he understood the difficulties involved and did not want to veto the law, but that he was under pressure from "many sides" to address the voting rights of expatriate Iraqis. Aboody added IHEC and UNAMI would meet again later in the evening to discuss options that would not require amendment of the law but still offer Hashimi a reasonable compromise. Aboody was cautiously optimistic that IHEC could achieve a workable solution with the flexibility of all involved.

¶8. (C) Deputy SRSG Andrew Gilmour of UNAMI, in contrast, was Q8. (C) Deputy SRSG Andrew Gilmour of UNAMI, in contrast, was more somber on the way ahead. Gilmour told Pol Counselor that Hashimi told Haydari and Sandra Mitchell, head of the UNAMI International Electoral Assistance Team, that he would veto the election law unless a face-saving solution could be found for him by the time the COR session recessed the next day. Mitchell and the IHEC Board of Commissioners will meet in the morning November 17, followed by a meeting with the COR Legal Committee, to attempt to agree on a change of language with little real impact.

¶9. (C) COMMENT: While it is difficult to gauge Hashimi's true intentions and bottom line regarding his opposition to the election law, it appears that he genuinely wants a way forward that lets him claim victory without having to cast a veto. Post is working closely with UNAMI and IHEC to develop a solution that is acceptable to Hashimi and other major party leaders but that will not require legislative action in the COR. END COMMENT.
HILL